

#3



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Gavin William Kele

Serial No. (not yet assigned)

Filed: 27 December 2001

For: METHOD AND APPARATUS FOR LIFTING CRYPT LIDS

Atty. Ref.: A-7739.CIP

Group:

Examiner:

RECEIVED

FEB 22 2002

OFFICE OF PETITIONS

* * * * *

Assistant Commissioner for Patents
Washington, DC 20231

DECLARATION OF JAMES PAUL MARTIN

UNDER 37 CFR §1.47(a)

I, James Paul Martin, of 69 Knight Street, North Rockhampton, Queensland, Australia
declare as follows:

1. I am a citizen of Australia, and am employed as the Chief Executive Officer by
Rockele Pty Ltd, an Australian company. All of the shareholding of Rockele Pty Ltd is owned by
Rockhampton City Council, a statutory corporation incorporated under the laws of the State of
Queensland, Australia.

2. Rockhampton City Council believes that it is the beneficial owner of the invention
of the above-identified application, and has licensed the invention to Rockele Pty Ltd. Rockele Pty
Ltd has also been engaged by Rockhampton City Council to prosecute the above-identified
application on its behalf.

3. I understand that the inventor of the invention which is the subject of the above-
identified patent application is Gavin William Kele, an Australian citizen.

07/20/2002 AXELLEY 00000034 082455 10026626

01 FC:122 130.00 CH

4. The above-identified application is a continuation-in-part application in respect of prior application no. 09/117016 assigned to Rockhampton City Council.

5. I understand that Gavin William Kele assigned all of his rights to any and all improvements disclosed in application 09/117016 to Rockhampton City Council, as noted in the attached copy of an assignment dated 3 July 1998 (Tab 1).

6. On Friday 14 December 2001, at approximately 2.40pm, I personally delivered a Declaration/Power of Attorney form with attached specification, and an assignment form, to the inventor Gavin William Kele. Mr Kele told me that he would peruse the documents over the weekend and asked me to come back on Monday to pick up the signed documents.

7. On Monday, 17 December 2001, at approximately 10.00am, I telephoned Mr Kele to arrange a time that would be suitable to pick up the signed documents. Mr Kele stated that he would not sign the documents. Mr Kele stated that he had not assigned the lid lifter to the Rockhampton City Council, but only the crypt system. However, Mr Kele stated that he would sign the documents if I gave a written guarantee that the Rockhampton City Council would make an offer to purchase the intellectual property relating to the lid lifter. I advised that I would refer the matter to the Chief Executive Officer of the Rockhampton City Council for deliberation, at my meeting with the CEO at 3.00pm that day.

8. At 3.41pm on Monday 17 December 2001, I telephoned Mr Kele to advise him of the outcome of my meeting with the CEO, namely that the Rockhampton City Council was not prepared to pay twice for the same intellectual property. Mr Kele then stated that he would not sign the documents.

9. On Tuesday, 18 December 2001, a copy of the assignment document of 3 July 1998 (Tab 1) was faxed to Mr Kele.


10. On Wednesday, 19 December 2001, I collected the unsigned documents from Gavin Kele who, at that time, confirmed his refusal to sign the documents notwithstanding his previous

execution of the assignment of 3 July 1998. The documents which were delivered to Mr Kele but not signed are attached (Tab 2).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

11/1/2002

Date



James Paul Martin